

# **Finance Committee**

Senator Steve Yarbrough, Chairman



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# FINANCE COMMITTEE

## LEGISLATION ENACTED

### unclaimed property; exempt child support (S.B. 1103) – Chapter 63

Exempts child support payments from the definition of *property* under the Revised Arizona Unclaimed Property Act.

### real estate transfer affidavit; transmission (S.B. 1105) – Chapter 98

Requires that a county recorder scan all real estate transfer affidavits and transmit an electronic copy to the Department of Revenue and the Arizona State Library, Archives and Public Records (ASLAPR), and transmit the original transfer affidavit to ASLAPR when no longer in active use. Clarifies that either the original transfer affidavit or an electronic copy of the original is acceptable for transmission to the county assessor.

### city sales tax; residential retail (S.B. 1160) – Chapter 40

Retroactive to TY 2011, prohibits a city or town that levies a transaction privilege, sales, gross receipts, use, franchise or other similar tax or fee from imposing or increasing the rate of tax on renting or leasing real property for residential purposes unless approved by voters of that city or town at a regular municipal election. Excludes health care facilities, long-term care facilities or hotel, motel or other transient lodging businesses. Stipulates that the provisions apply whether or not the municipality has adopted the Model City Tax Code.

### municipal taxes; auditors and collectors (S.B. 1165) – Chapter 66

Prohibits a municipality from employing auditors on a contingent fee basis or entering into a contract with a third party to collect, administer or process transaction privilege tax (TPT), but allows contracting for collection, administration or processing if both of the following apply: a) the municipality does not contract with the Department of Revenue for the collection, administration or processing of TPT or affiliated taxes; and b) the municipality enters into that contract solely for the collection of delinquent city or town TPT or affiliated taxes for which a liability has been established.

Specifies that the prohibition does not apply to any contract entered into before, or existing on, January 1, 2011, but does apply to any renewal of that contract.

### municipal tax exemption; commercial lease (S.B. 1166) – Chapter 144

Arizona statutes prohibit cities, towns and special taxing districts from levying transaction privilege tax on certain items. S.B. 1166 prohibits these entities from levying that tax on gross proceeds of sales or gross income from a commercial lease where a corporation leases real property to another corporation in which eighty percent of shareholders are the same.

### optional retirement plans; community colleges (S.B. 1196) – Chapter 207

Requires a community college district board participating in an optional retirement plan to make contributions from public monies on behalf of each participant to at least mirror the current Arizona State Retirement System rate.

revitalization districts; revisions (S.B. 1203) – Chapter 294

Includes water systems and multipurpose event centers in the facilities and infrastructure eligible for revitalization district funding. Requires that persons appointed to the revitalization district's board of directors (Board) each own real property in the district and that subsequent Board members be elected by real property owners in the district. Prohibits the district from using annual tax levies to finance public infrastructure projects and to pay off any debt on outstanding bonds. Requires an election by both the property owners and the qualified electors to levy an ad valorem tax on all real and personal property, if desired by the Board, to pay the operation and maintenance expenses of the district. Removes the restriction limiting the formation of a revitalization district to counties with a population of at least two million people. Specifies that a qualified elector must be an owner of real property in the district to vote in an election of dissolution of that district and requires both a majority of the qualified electors voting and a majority of acreage by the votes cast at the election to be in favor of imposing the tax in order to impose an ad valorem tax on the district.

county treasurers; investments; warrants; notice (NOW: levy limit override; city; town) (S.B. 1226) – Chapter 342

Allows municipalities with a population between 25,000 and 40,000 persons to levy an additional secondary property tax, that is not within the limitations on primary property taxation, to fund specific purposes called for and voted on by the public. Requires the governing body to adopt a resolution stating the number of years, between two and seven, the resolution will be in effect, the purpose of the levy, the maximum dollar amount of secondary property taxes allowed to be collected each year the levy is in effect, and the estimated secondary property tax that will be levied in the first year if the levy is approved.

Repeals this taxing authority January 1, 2013, but the authority to levy remains in effect for the full term approved by the voters.

ASRS; return to work; contributions (NOW: county treasurers; investments) (S.B. 1239) – Chapter 187

Allows county treasurers to invest in open-end or close-end management type investment companies or investment trusts, including exchange traded funds, whose underlying investments are invested in securities allowed by state law. Removes language requiring a duplicate warrant issued by a county treasurer to be stamped or marked so that its character may be readily ascertained, and removes *successors* as qualified agencies to rate commercial paper, bonds, debentures and notes that are issued by corporations organized and doing business in the United States for the purpose of determining eligible investments.

dams; affidavit; recording (NOW: property tax classification; lodging) (S.B. 1293) – Chapter 232

SEE THE WATER, LAND USE AND RURAL DEVELOPMENT COMMITTEE.

public health districts; voter approval (S.B. 1313) – Chapter 295

Retroactive to January 1, 2011, requires an election to be held for a board of supervisors to establish a public health services district, and eliminates the provision for a unanimous vote of the board.

PSPRS; CORP; EORP; administration (S.B. 1317) – Chapter 347

Modifies Public Safety Personnel Retirement System (PSPRS) statutes relating to purchase of credited service, compensatory time, eligibility for accidental disability, and employer contributions, as follows: a) includes compensatory time used by an employee in lieu of overtime not otherwise paid by an employer in the definition of *compensation* and excludes unused compensatory time; b) prohibits the PSPRS Board from making a retroactive payment of a pension more than 90 days after the date of the person's application for benefits; and c) allows recovery in a court of competent jurisdiction for any delinquent payment together with interest charges, or alternatively, allows the PSPRS Board to deduct these amounts from any other monies, including excise revenue taxes.

~~technical correction; light pollution~~ (NOW: bond election; informational pamphlet) (S.B. 1512) – Chapter 72

SEE THE WATER, LAND USE AND RURAL DEVELOPMENT COMMITTEE.

CORP; designated position; waiver (S.B. 1539) – Chapter 298

Retroactive to October 1, 2009, removes the definition of *temporarily filled*, allowing a corrections employee with at least five years of credited service under the Corrections Officer Retirement Plan (CORP) who is promoted or transferred to an Arizona State Retirement System designated position to request a waiver so that the employee may remain within CORP.

church bonds; exempt securities (S.B. 1543) – Chapter 106

Exempts first mortgage bonds from the registration requirement of the Arizona Securities Act under the following circumstances:

- a) they are issued by individual churches or affiliated religious schools;
- b) the amount does not exceed \$25 million; and
- c) they are issued by a single issuer, provided that no commission or remuneration is paid to any person other than a registered dealer as salesman in connection with the sale.

retirement systems; plans; plan design (S.B. 1609) – Chapter 357 W/O

S.B. 1609 is an omnibus pension reform bill that affects all four Arizona state retirement systems: the Arizona State Retirement System (ASRS), the Public Safety Personnel Retirement System (PSPRS), the Elected Officials' Retirement Plan (EORP) and the Corrections Officer Retirement Plan (CORP).

***Return to Work*** – Establishes an alternative contribution rate for employers of retired members of all four plans who return to work. The contribution level is based on the contribution required to amortize the unfunded liability of the plan and begins on the retired employee's first day of employment.

***Contribution Rates*** – Are increased as follows:

- a) PSPRS – A total increase of four percent over five years.
- b) EORP – A total increase of six percent over three years.
- c) CORP – No increases.
- d) ASRS – No increases other than those contained in Laws 2011, Chapter 26 (S.B. 1614).

***Permanent Benefit Increase (PBI)*** – Revises the structure of PBIs for EORP, PSPRS and CORP:

- a) Requires a total return of more than 10.5 percent for the prior fiscal year to allow for a PBI.
- b) Limits that increase to two percent if funded status is 60 to 65 percent increasing to four percent if funded status is at least 80 percent.
- c) If the amount of funds that exceed that 10.5 percent is not enough to fund the appropriate percentage increase, the increase is limited to that percentage that can be funded.
- d) Increases will only be available to members who are 55 years of age or older.
- e) Allows the Legislature to enact permanent one-time increases after an analysis of the effect of the increase by the Joint Legislative Budget Committee.

***Deferred Retirement Option Plans (DROP)*** – Limits eligibility for DROP in PSPRS to those who become a member of the system before January 1, 2012. Limits the amount credited monthly for those DROP participants who have fewer than 20 years of credited service on January 1, 2012. Requires a member who has less than 20 years of credited service on January 1, 2012 and who elects to participate in DROP on or after January 1, 2012, to make employee contributions equal to a regular employee who participates in PSPRS.

***PSPRS and CORP*** – For those members who become a member on or after January 1, 2012:

- a) Final benefits will be calculated by averaging the highest five years of service over the last ten years, instead of the highest three years.
- b) Normal retirement will require 25 years of service, instead of 20 years and a minimum age of 52.5.
- c) PSPRS members who quit their positions and choose to “cash out” benefits will only be entitled to their own contributions plus interest.

***EORP*** – For those members who become a member on or after January 1, 2012:

- a) Final benefits will be calculated by averaging the highest five years of service over the last ten years.
- b) Early retirement is eliminated. Normal retirement will require ten years of service at age 62, or five years of service at age 65.
- c) The multiplier used to calculate the pension is reduced to three percent per year. Maximum pension is capped at 75 percent of the member’s average annual salary.
- d) Survivor benefits are reduced with an option to pay more for an increased benefit.
- e) Members who quit their positions and choose to “cash out” benefits will only be entitled to their contributions plus interest.

***ASRS*** – Removes the 85 point system and instead stipulates that *normal retirement* is either a member’s 65<sup>th</sup> birthday, 62<sup>nd</sup> birthday and at least 10 years of service, 60<sup>th</sup> birthday and at least 25 years of service, or 55<sup>th</sup> birthday and at least 30 years of service.

***Felony Forfeiture*** – Requires a judge to order the forfeiture of retirement benefits if a member is convicted or pleads no contest to a job-related class 1 through 5 felony. That member would receive a return of the member’s contribution, plus interest, in a lump sum upon the ordered forfeiture. Upon a successful appeal, no rights are forfeited and benefits are reinstated. Allows a judge to award some or all of the member’s forfeited benefits to a spouse, dependent or former spouse.

***Purchase of Service Credit*** – Limits purchase of credited service for public service, leave without pay, leave of absence and active military service to 60 months, and requires a member to have 10, rather than 5, years of credited service in the state system to elect to receive those credits.

***Study Committee*** – Creates the Defined Contribution Study Committee (Study Committee) to study the feasibility and cost of transferring existing members and/or new members to a defined contribution plan.

***Appropriations*** – Appropriates \$250,000 from the ASRS administration account in FY 2012 to ASRS for the administrative implementation of this act. Appropriates \$50,000 from the ASRS administration account and \$50,000 from PSPRS in FY 2012 to the State Treasurer for duties of the Study Committee.

revenues; 2011-2012; budget reconciliation (NOW: budget reconciliation; revenue; 2011-2012) (S.B. 1616) – Chapter 28

SEE THE APPROPRIATIONS COMMITTEE.

internal revenue code conformity (H.B. 2008/S.B. 1104) – Chapter 4 E

An emergency measure that conforms Arizona tax statutes to the Internal Revenue Code (IRC) as of January 1, 2011. This reflects changes adopted by Congress during 2010.

- a) Conforms retroactively the Arizona income tax statute with 2010 United States income tax policy and includes the:
  - 1. Temporary Extension Act of 2010;
  - 2. Hiring Incentives to Restore Employment Act;
  - 3. Patient Protection and Affordable Care Act;
  - 4. Health Care and Education Reconciliation Act of 2010;
  - 5. Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010;
  - 6. Dodd-Frank Wall Street Reform and Consumer Protection Act;
  - 7. Education Jobs and Medical Assistance Act;
  - 8. Small Business Jobs Act of 2010; and
  - 9. Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.
- b) Modifies the definition of the IRC for TY 2009 to include the Patient Protection and Affordable Care Act.
- c) Removes the definition of IRC for TY 2000.

ASRS; amendments (H.B. 2024) – Chapter 277

Provides clean-up language relating to retirement provisions adopted in the FY 2012 budget (Laws 2011, Chapter 26). Also provides various administrative changes to retirement statutes regarding distributions, transfers, qualified domestic relations orders (QDRO) and long-term disability, including:

- a) prohibits a member who previously was a member of another retirement system and who receives or is eligible to receive a retirement benefit from that system from receiving retirement benefits from the Arizona State Retirement System (ASRS) for the same period;
- b) limits the enhanced survivor benefit calculation to a member's natural or adopted child under the age of 21 or a member's natural or adopted child of any age who is disabled;

- c) allows the Board to award a lump sum benefit if the monthly benefit is less than an amount determined by the Board, rather than the current stipulated amount of \$20;
- d) stipulates that amounts payable to an alternate payee under a QDRO cease on the death of the alternative payee, if that alternate payee predeceases the member;
- e) allows ASRS to suspend or terminate disability benefits if a member fails to provide requested information; and
- f) requires ASRS coverage for a state employee on the 27<sup>th</sup> week of employment if membership criteria is met.

investing public monies; notes (H.B. 2163) – Chapter 108

Expands the meaning of eligible investments available to treasurers of a local government to include notes of this state, or any of its counties, incorporated cities or towns or school districts.

~~private taxpayer rulings; unclaimed property~~ (NOW: unclaimed property; holder information rulings) (H.B. 2201) – Chapter 315

The Department of Revenue (DOR) is required to assist in the compliance of taxpayers and unclaimed property holders by providing them with information and advice. Private taxpayer rulings and taxpayer information rulings are written documents responding to a written inquiry by an individual or organization that is identified in the request. The difference between a taxpayer information ruling and a private taxpayer ruling is that a taxpayer may request the advice from DOR through a taxpayer representative without disclosing any identifying information. DOR is currently allowed to issue private holder rulings to unclaimed property holders, and H.B. 2201 allows them to similarly issue holder information rulings.

department of revenue closing agreements (H.B. 2202) – Chapter 316

Modifies the definition of *affected class* to bring entire classes of taxpayers into compliance with Arizona tax laws on a prospective basis in situations where widespread noncompliance was due to a pervasive misunderstanding or misapplication of the law.

sharing revenue information; political subdivisions (H.B. 2236) – Chapter 329

Allows counties or incorporated cities or towns in this state to use the liability setoff program established by the Department of Revenue to intercept Arizona state income tax refunds if an outstanding debt in excess of \$50 is owed.

~~internal revenue code; conformity policy~~ (NOW: conformity policy; internal revenue code) (H.B. 2332) – Chapter 128

Prohibits the Department of Revenue (DOR) from assessing penalty or interest on a nonconformity issue if all of the following occur:

- a) the taxpayer filed a return and paid taxes due, relying on DOR's published forms and instructions;
- b) conformity does not occur;
- c) DOR supplements its published forms and instructions relating to nonconformity and requires the taxpayer to file an amended return; and
- d) the taxpayer amends its return to report the nonconformity deficiency and pays the additional tax by the extended due date of the next taxable year.

Also, requires a person who stores, uses or consumes tangible personal property that is subject to use tax for a nonbusiness purpose to declare the annual amount of tax due on that person's income tax return, if that article was used for a non-business purpose and the tax was not collected by a registered retailer.

city tax code; official copy (H.B. 2336) – Chapter 129

Requires that the official and up-to-date copy of the Model City Tax Code be maintained by the Department of Revenue (DOR) and all changes in the rates of tax be reflected in the official copy on file with DOR within 10 days of the Municipal Tax Code Commission's approval.

~~sale of trust lands; taxes~~ (NOW: taxes; sale of trust lands) (H.B. 2397) – Chapter 284

Exempts purchasers of state trust lands from paying taxes on that land for seven years from the time a certificate of purchase is issued, or until a patent for the land is issued, whichever occurs first, and stipulates that if a patent has not been issued within seven years after the State Land Department has issued a certificate of purchase, the taxes will begin to accrue. This act is retroactive to TY 2008 and to certificates of purchase issued from and after January 1, 2006.

~~residential contractors' recovery fund~~ (NOW: taxes; aircraft; personal property) (H.B. 2341) – Chapter 300

SEE THE APPROPRIATIONS COMMITTEE.

agricultural property tax classification; equine. (H.B. 2552/S.B. 1183) – Chapter 8

Provides that all land and improvements devoted to commercial breeding, raising, boarding or training of equine be valued as agricultural property and assessed under Class 2. Expands the definition of agricultural property to include equine rescue facilities registered with the Arizona Department of Agriculture.

health savings accounts; tax incentives (H.B. 2556) – Chapter 287

Provides qualified employers an income tax credit, beginning in TY 2011, for providing qualifying health insurance plans to each enrolled employee. The bill provides an income tax credit of \$360 for every employee that enrolls in a health insurance plan offered by the business. To qualify, the business must offer high deductible health insurance plans with catastrophic coverage under a health savings account. In order to receive the credit, businesses must have between two and fifty employees, must not have provided health insurance within 90 days of offering the plan, must offer the plan to every employee, and provide the plan to each employee for at least one year. The credits can be carried forward three years and new credits can only be claimed for three years. Repeals the tax credit on January 1, 2014.

~~fund transfer; Arizona historical society~~ (NOW: unemployment; special assessment) (H.B. 2619) – Chapter 218

Requires employers to pay a special assessment in both calendar years 2011 and 2012, at a rate determined by the Arizona Department of Economic Security (DES), which would be used to pay outstanding loan balances related to Arizona's Unemployment Insurance Program. Requires the assessments to be deposited into the Unemployment Special Assessment Fund (Fund). Requires

Fund monies to be used: a) first, to pay interest charges incurred on the loan; then b) to retire the loan principal on or before November 10, 2012.

Contains a legislative intent clause that limits the rate of the assessment to:

- a) 0.4 percent of the taxable wages paid for the tax year in 2011;
- b) 0.6 percent of the taxable wages paid for the tax year in 2012;
- c) 0.2 percent of the taxable wages paid for any *increase* in the assessment for 2012.

Reduces the assessment by 0.1 percent if the state is granted a waiver of interest charges. Permits DES to increase the assessment for 2012 if DES determines that the Fund monies will not be sufficient to pay interest charges and restore the principal by November 10, 2012.

Transfers any remaining monies in the Fund to the Unemployment Compensation Fund after payment of all principal and interest on the loan. Repeals the assessment and Fund on January 1, 2013.

### **LEGISLATION VETOED**

#### **2011 tax corrections act (S.B. 1186) – VETOED**

Corrects errors, obsolete language and blending issues within the Arizona Revised Statutes that govern state tax laws. This year several substantive changes were added to the tax corrections act including:

- a) establishing the income tax credit for contributions to certified school tuition organizations and allowing an individual taxpayer to contribute to a school tuition organization that is organized to receive corporate donations;
- b) exempting aircraft, navigational and communication instruments, and other accessories and related equipment sold to foreign governments and used within Arizona from transaction privilege and use taxes (which was signed by the Governor this session in H.B. 2341); and
- c) expanding the existing property tax exemption for grounds and buildings owned by agricultural societies to include property owned by a nonprofit organization and used for specific purposes.

The Governor in her veto letter states that the bill undoubtedly stretches the limits of what is appropriate for a tax corrections bill. She hopes her veto will inspire a return to the traditional and customary understanding that certain bills are intended for specific purposes and should be held by leadership as off-limits from substantive policy changes.

#### **PSPRS; trustees; employment agreements (S.B. 1316) – VETOED**

Specifies that loans, guarantees, investment management agreements and contracts entered into by the Public Safety Personnel Retirement System Board do not involve the procurement, supply or provision of goods, equipment, labor, materials or services but are instead contracts memorializing obligations.

The Governor vetoed S.B. 1316 because she felt it would weaken statutory prohibitions against the State of Arizona doing business with companies with scrutinized business operations in Sudan or Iran.

corporate tax allocation; sales factor (S.B. 1552) – VETOED

Allows a multistate service provider to elect to treat sales from services as being in this state if the purchaser of the service received the benefit of the service in this state and the election is made on the taxpayer's income tax return. Defines *multistate service provider* as a taxpayer that derives more than 85 percent of its sales from services to purchasers who receive the benefit of the service outside this state in the taxable year of election. Excludes sales to students receiving educational services at campuses physically located in this state from the 85 percent calculation. Becomes effective in TY 2012.

In her veto message, the Governor indicated that one of her chief concerns with S.B. 1552 is the quick timetable for implementing the bill's goal. The bill's estimated fiscal impact is \$33 million annually and given our current fiscal condition, the Governor states we cannot afford the accelerated implementation date of December 31, 2011.

~~technical correction; cosmetology schools; contracts~~ (NOW: low income housing; property tax) (H.B. 2166) – VETOED

The low income housing tax credit program was enacted by Congress in 1986 to provide the private market with an incentive to invest in affordable rental housing. Federal housing tax credits are awarded to developers of qualified projects. Developers then sell these credits to investors to raise capital for their projects, which reduces the debt that the developer would otherwise have to borrow. H.B. 2166 requires county assessors to value these qualifying low income multifamily residential rental properties using an income-based approach, and establishes a capitalization rate of 12.5 percent.

The Governor, in her veto message, stated her belief that this bill creates a bad precedent by creating inequities in our property tax system. County assessors have committed to her that they will continue to reach out to legislators and others interested in achieving a solution that is workable for all involved.

special districts; secondary levy limits (H.B. 2338) – VETOED

Primary property taxes, which fund the maintenance and operations budgets of counties, cities and community colleges, are currently limited to two percent plus growth. Secondary taxes levied for bonds and budget overrides are limited in the respect that they require voter approval. H.B. 2338 limits levy increases for county free library districts, county jail districts, juvenile detention facilities and public health services districts to two percent plus growth. It also increases the annual limit to the maximum permissible limit regardless of whether the district actually levies that amount.

The Governor vetoed H.B. 2338 stating that mandating restrictions will affect counties inequitably in their efforts to respond to community needs. The Governor believes a system of limits could be put in place, while also taking into account the varying circumstances around the state.

STOs; credits; administration (H.B. 2581/S.B. 1312) – VETOED

Allows entities that pay state severance tax or state luxury tax on liquor products to receive a state tax credit against those taxes for contributions made to a School Tuition Organization (STO) that awards scholarships to low-income, displaced or disabled pupils. It also increases the maximum

allowable tax credit that individuals can receive for STO contributions to \$750 (versus \$500 currently) for a single individual or head of household and to \$1,500 (versus \$1,000 currently) for a married couple filing jointly. The bill also eliminates caps on the total amount of tax credits that corporations and insurers may claim annually for STO contributions.

The Governor explains her rationale for vetoing H.B. 2581 by addressing four principle concerns:

- a) any tax reduction, including tax credits, must be part of an overall plan to keep the budget balanced, and H.B. 2581 would unbalance the budget by expanding the pool of students who may qualify for scholarships funded by corporate tax credits.
- b) aggregate caps on tax credits are critical to the state's ability to budget – corporate tax credits should have aggregate caps.
- c) tax credits should not overly burden budgets and, as much as possible, impact local governments in a uniform manner – H.B. 2581 unfairly impacts certain local counties where severance tax is a major source of revenue relative to the rest of the state.
- d) H.B. 2581 potentially creates a system that would provide wholesalers a tax benefit with no requirement to pass that benefit through to consumers.

## **SECOND SPECIAL SESSION**

### **LEGISLATION ENACTED**

Arizona commerce authority; business incentives. (H.B. 2001/S.B. 1001) – Chapter 1 (Second Special Session)

SEE THE COMMERCE AND ENERGY COMMITTEE.